

U and T Visa Certification Policy

POLICY & PROCEDURE NO. 9.02	DATE: __11/09/21__
	EFFECTIVE DATE: __11/09/21__
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 55.1.1; 55.2.1; 55.2.3a; 55.2.4b; 12.1.1	REVISION DATE: _____

I. Historical BACKGROUND:

The Stow Police Department recognizes that a crime victim's cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of all criminal offenses. However, certain crime victims who are deemed to be without lawful immigration status and are present in this country without proper inspection by federal authorities may often times be hesitant or reluctant to come forward to report their victimization and fail to cooperate and assist in the legal process against their perpetrator for fear of detention and even possible deportation. Undocumented immigrants, especially women and children, can be particularly vulnerable to criminal activity like human trafficking, domestic violence, sexual assault, stalking, and other crimes due to a variety of factors, including but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences.

As a result, in 2000, Congress created the U and T Visa Programs within the **Victims of Trafficking and Violence Protection Act (VTVPA)**. The purpose of this program is to encourage immigrant crime victims to come forward and report criminal activity to law enforcement agencies thereby strengthening the ability of both local and state law enforcement agencies to investigate and prosecute serious crimes. At the same time, this U and T visa program offers much needed protections to these victims of such crimes without the immediate risk of being removed from the country and without having any fear of detention and/or deportation by federal law enforcement officials. In addition, this program has the added advantage of strengthening relationships between the Stow Police Department and the community that we serve. **55.2.3a**

II. Policy:

Pursuant to M.G.L. Chapter 258F Sections 1-4, it shall be the Policy of the Stow Police Department to assist immigrant victims of crime with their U or T Visa applications when

requested and when they are found to be cooperating with the detection, investigation, or prosecution of criminal activity and to respond to such requests for nonimmigrant status certifications forms within ninety (90) days. **55.1.3**

III. Statute: M.G.L. Chapter 258F §§ 1-4 – Certification for Victims of Violent Crime and Human Trafficking

- A **certifying entity** shall adopt a policy for completing and signing **nonimmigrant status certification forms** for: (i) victims of criminal activity who intend to petition for nonimmigrant visas under 8 U.S.C. 1101(a)(15)(U); and (ii) victims of severe forms of trafficking in persons who intend to petition for nonimmigrant visas under 8 U.S.C. 1101(a)(15)(T). See M.G.L. Chapter 258F Section 2.
- A **certifying entity shall respond** to a **nonimmigrant status certification request** from a victim of criminal activity who intends to petition for a nonimmigrant visa under 8 U.S.C. 1101(a)(15)(U) or from a victim of severe forms of trafficking in persons who intends to petition for a nonimmigrant visa under 8 U.S.C. 1101(a)(15)(T) **not later than ninety (90) days after receiving the request for certification.**
See M.G.L. Chapter 258F Section 3.
- The **certifying entity shall respond** to the request by either:
 - (i) completing and signing the certification forms; or
 - (ii) issuing a written denial of the request, without prejudice, informing the victim of the reason that the request does not meet the requirements of the certifying entity's policy under section 2; or
 - (iii) in extenuating circumstances outside the control of the certifying entity that prevent the certifying entity from responding to the certification request in the required time period, issuing a written explanation of the delay, the process the certifying entity will undertake to respond and a projected time frame for such response. See M.G.L. Chapter 258F Section 3.
- Annually, **not later than February 1**, each **certifying entity shall report** to the executive office of public safety and security:
 - (i) the number of individuals that requested nonimmigrant status certification;
 - (ii) the number of certification forms that were completed and signed; and
 - (iii) the number of such requests that were denied.

Note: The information reported under this subsection shall not include any personal identifying information of an individual requesting nonimmigrant status certification. See M.G.L. Chapter 258F Section 4(a).

- Annually, not later than April 1, the executive office of public safety and security shall file a report with the clerks of the senate and house of representatives, the joint committee on the judiciary and the joint committee on public safety and homeland security on the information received under subsection (a).
- The report from EOPSS shall include, but not be limited to:
 - (i) the number of individuals that requested nonimmigrant status certification, delineated by certifying entity;
 - (ii) the number of certification forms that were completed and signed, delineated by certifying entity;
 - (iii) the number of such requests that were denied, delineated by certifying entity; and
 - (iv) **total statewide statistics on nonimmigrant status certifications and denials.**
- The report shall not include information that would allow the public to ascertain the identity of an individual requesting nonimmigrant status certification. The executive office shall also make the report publicly available on its website.
See M.G.L. Chapter 258F Section 4(b).

IV. Definitions:

- **Certifying entity:** A law enforcement agency, prosecutor or other state or local entity that has the authority to detect, investigate or prosecute severe forms of trafficking in persons or criminal activity. See M.G.L. Chapter 258F Section 1.
- **Criminal Activity:** as described in 8 U.S.C. 1101(a)(15)(U)(iii). See M.G.L. Chapter 258F Section 1.
- **Severe forms of trafficking in persons:** as defined in 22 U.S.C. 7102. See M.G.L. Chapter 258F Section 1.

- **U Visa:** A Visa issued by the **United States Citizenship and Immigration Service** (USCIS) conferring legal status for up to **four (4) years** to an immigrant victim who meets the following statutory requirements:

- They have suffered substantial physical and/or mental abuse as a result of having been a victim of a listed criminal activity;
- They possess information concerning such criminal activity;
- They have been helpful, are being helpful, or are likely to be helpful in the investigation or prosecution of stated crime; and
- They have been the victim of criminal activity that occurred in the United States or have knowledge of some violation of the laws of the United States

Note: To be eligible for a U Visa, the applicant must submit an application packet that includes a certification from a certifying official (i.e., Police Chief, Prosecutor, DCF Official) or agency that they have been, are being, or are likely to be helpful in the detection, investigation, or prosecution of a qualifying criminal activity.

- **U Visa Certification Form:** A sworn statement ([USCIS Form I-918](#), Supplement B) that affirms the immigrant victim's past, present, or future helpfulness in the detection, investigation, and/or prosecution of certain qualifying criminal activity.
- **T Visa:** A Visa issued by the **United States Citizenship and Immigration Service** (USCIS) conferring legal status for up to **four (4) years** to an immigrant victim who meets the following statutory requirements:

- Are or were a victim of a severe form of human trafficking;
- Are in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking;
- Comply with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking (unless you are under the age of 18 or you are unable to cooperate due to physical or psychological trauma. In either case, you may not need to show that you complied with reasonable requests from law enforcement)

Note: To be eligible for a T Visa, the certification from a certifying official (i.e., Police Chief, Prosecutor, DCF Official) or agency that they complied with reasonable requests for cooperation is helpful evidence for the application.

- **T Visa Certification Form (Declaration of Law Enforcement Officer for Victim of Trafficking in Persons)**: A sworn statement (USCIS Form I-914, Supplement B) that affirms the immigrant victim's compliance with reasonable requests for assistance from law enforcement.
- **Designated Certifying Officials**: A law enforcement official who is authorized to issue a U or T Visa certification that verifies an immigrant victim's past, present, or future helpfulness in the detection, investigation, or prosecution of certain qualifying crimes. The Chief of Police of the Stow Police Department shall be the certifying official for the Stow Police Certification Form
- **Qualifying Criminal Activity for U Visas**: U Visa qualifying criminal activity includes, but is not limited to: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, solicitation to commit any of the above mentioned crimes, ***or any similar activity*** in violation of federal, state, or local criminal law. The attempt or conspiracy to commit any of the above crimes also qualifies.

Note: “Any similar activity”: accounts for the wide variety of state and federal criminal laws that may have names different from the criminal activity listed above but are comparable in nature and elements to the aforementioned criminal activity.

V. **How do U and T Visas actually work?**

U and T Visas allow the victims of serious crimes who are helpful to police to temporarily stay in the United States for up to four (4) years. U Visas are approved and granted by *U.S. Citizenship and Immigration Services* (USCIS), which is a component of DHS. U and T Visas provide recipients with nonimmigrant status that comes with certain benefits, including the ability to work in the United States.

If certain conditions are met, U or T Visa holders can apply for lawful permanent resident status (i.e., seek a green card), which can provide a pathway to citizenship. When Congress created the U-Visa program, it explained that the **purpose of U and T Visas was primarily twofold**:

- (1) to provide **humanitarian relief to immigrant crime victims**, and
- (2) to **provide a mechanism that encourages immigrants to come forward** and report crimes to local police to improve public safety.

The U Visa is especially important for immigrant victims of **domestic violence**, sexual assault, and human trafficking, who comprise roughly 75 percent of U Visa holders.

This is because abusers often use the threat of deportation as a tool to control victims; for example, abusers often tell their victims that they will contact federal immigration authorities if the victim calls the police to report the abuse. In fact, research shows that more than a quarter of U Visa applicants were reported to immigration authorities by their abusers at some point during their abuse. **Knowing that a U Visa can provide safety and protection allows many domestic violence and sexual assault victims to feel more comfortable seeking help and following through with legal action against their abusers.**

VI. Similarly, T visas are important for immigrant victims because human traffickers often take advantage of those who are vulnerable. Immigrants, particularly those without status, may be susceptible to human trafficking for a variety of reasons including the lack a social safety net, language barriers, less knowledge of U.S. laws and their legal rights, as well as fear of deportation. Due to these vulnerabilities, Congress created the T Visa to protect immigrant victims and strengthen the relationship between law enforcement and immigrant communities. **Why are U and T Visas Important to the Stow Police Department:**

When an immigrant applies for a U or T Visa, local **police have a limited role** in the process: they *certify* to federal authorities whether the applicant was in fact a victim of such a crime and was helpful to the police. Crime victims who wish to obtain a U or T Visa are responsible for submitting their own applications and putting together documentary evidence for USCIS. Victims usually do this with assistance from an immigration attorney – although that is not required. One part of the application process for a U Visa requires so-called outside **certification**. An applicant must obtain **verification from a law enforcement** agency, stating that the applicant was a **victim of a qualifying crime** and that the **victim was helpful to the police**. Signing a U or T certification does not confer any immigration benefit to the victim. Nor is a signed certification a guarantee that USCIS will approve their application. There are many other requirements that USCIS will evaluate to determine if the victim qualifies for a U or T visa.

For a U Visa, this certification is documented in an **USCIS Form I-918, Supplement B** form, which is an attachment that accompanies the U Visa application. The head of a police agency, such as the police chief or sheriff, is automatically designated as a certifying official. As mentioned the Chief of Police shall serve as the designated certifying official for the Stow Police Department. The Police Chief is responsible for completing Part (2) and (6) illustrated below which is **address information and signature with the date**.

For a T Visa, the applicant is not required to obtain the certification form, but it is helpful evidence that the individual has been a victim of a severe form of trafficking and has complied with reasonable requests for assistance from law enforcement. For T Visas, the certification is documented in an **USCIS Form I-914, Supplement B** form, or the Declaration of Law Enforcement Officer for Victim of Trafficking in

Persons, which would accompany the T Visa application. As with the U Visa, the head of a police agency, such as the police chief or sheriff, is automatically designated as a certifying official. As mentioned the Chief of Police shall serve as the designated certifying official for the Stow Police Department. The Police Chief is responsible for completing Part (B) and the section of Part (F) referring to the Supervisor illustrated below.

Note: Police agencies are not the only organizations that can certify an [USCIS Form I-918, Supplement B](#) or [USCIS Form I-914, Supplement B](#) form. Prosecutors, judges, and government agencies with investigative functions (e.g., DCF) may also make these certifications. In practice, however, applicants most often approach police departments for U or T Visa certification requests. See below.

Part 2. Agency Information		
Name of Certifying Agency		
<input type="text"/>		
Name of Certifying Official	Title and Division/Office of Certifying Official	
<input type="text"/>	<input type="text"/>	
Name of Head of Certifying Agency		
<input type="text"/>		
Agency Address - Street Number and Name		Suite No.
<input type="text"/>		<input type="text"/>
City	State/Province	Zip/Postal Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
Daytime Phone No. (with area code and/or extension)		Fax No. (with area code)
<input type="text"/>		<input type="text"/>
Agency Type		
<input type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Local		
Case Status		
<input type="checkbox"/> On-going <input type="checkbox"/> Completed <input type="checkbox"/> Other: <input type="text"/>		
Certifying Agency Category		
<input type="checkbox"/> Judge <input type="checkbox"/> Law Enforcement <input type="checkbox"/> Prosecutor <input type="checkbox"/> Other: <input type="text"/>		
Case Number	FBI No. or SID No. (if applicable)	
<input type="text"/>	<input type="text"/>	

Part 6. Certification

I am the head of the agency listed in **Part 2** or I am the person in the agency who has been specifically designated by the head of the agency to issue U nonimmigrant status certification on behalf of the agency. Based upon investigation of the facts, I certify, under penalty of perjury, that the individual noted in **Part 1** is or has been a victim of one or more of the crimes listed in **Part 3**. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make no promises regarding the above victim's ability to obtain a visa from the U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the qualifying criminal activity of which he/she is a victim, I will notify USCIS.

Signature of Certifying Official Identified in Part 2.

Date (mm/dd/yyyy)

**Part B. Agency Information**

Name of Certifying Agency

Name of Certifying Official

Title and Division/Office of Certifying Official

Agency Address - Street Number and Name

Suite Number

City

State/Province

Zip/Postal Code

Daytime Phone # (area code and/or extension)

Fax # (with area code)

Agency Type

Federal

State

Local

Case Status

On-going

Completed

Local

Certifying Agency Category

Judge

Law Enforcement

Prosecutor

Other

Case Number

FBI or SID Number (if applicable)

Part F. Attestation

Based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make, no promises regarding the above victim's ability to obtain a visa from U.S. Citizenship and Immigration Services, based upon this certification. I further certify that if the victim unreasonably refuses to assist in the investigation or prosecution of the acts of trafficking of which he/she is a victim, I will notify USCIS.

Signature of Law Enforcement Officer (identified in Part B) (sign in ink)

Date (mm/dd/yyyy)

Signature of Supervisor of Certifying Officer (sign in ink)

Date (mm/dd/yyyy)

Printed Name of Supervisor

VII. Summary:

Step	Police Action Taken
1	When an investigator encounters an immigrant victim of a crime who has filed a police report and it is determined that they are willing to assist - or have assisted or cooperated - with the detection, investigation, or prosecution of qualifying criminal activity or human trafficking, the investigator should inform the immigrant victim of the U-Visa or T-Visa application process. 55.1.3
2	The U or T Visa certification may be issued at any time after detecting a qualifying criminal activity and the investigator has determined that the victim is being or will be helpful in the investigation. 55.2.1 There is no statute of limitations as to when a U or T Visa certification may be issued. <i>Note: The investigation need not be complete prior to issuing the certification. The law was designed to assist victims at very early stages of crime detection and investigation. The Chief of Police is authorized to complete the certification.</i>
3	The U Visa Certification Form (USCIS Form I-918, Supplement B) or T Visa Certification Form (USCIS Form I-914, Supplement B) needs to be completed and signed by the investigator and approved by his immediate supervisor. It should provide specific details about the nature of the crime being detected, investigated, or prosecuted. 55.2.3a It should also describe the victim's helpfulness in the case. 55.2.4b When the Chief signs the USCIS Form I-918, Supplement B or the USCIS I-914, Supplement B, this does not confer any immigration status upon the victim, but rather enables the victim to meet one of the eligibility requirements on the victim's application to USCIS.

4	<p>The investigator should work with a Victim Witness Advocate and/or the District Attorney's Office if available in helping the victim with the U Visa application (USCIS Form I-918 Petition for U Nonimmigrant Status") and assisting in securing legal representation.</p> <p>The U Visa Certification Form (USCIS Form I-918, Supplement B) or T Visa Certification Form (USCIS Form I-914, Supplement B) which has been completed and signed a by a certifying official should be given to the victim.</p> <p>A U Visa Certification is required to complete the U Visa application process. The Victim will then submit the completed application packet and supporting documents to the Victims and Human Trafficking Unit of USCIS, located in Vermont. A T Visa Certification Form is helpful evidence for the application process. The Victim will submit the completed application packet and supporting documents to the victims and Human Trafficking Unit of USCIS, located in Vermont.</p>
5	<p>A Victim who received a certification and was granted a U Visa or T Visa has an ongoing obligation to provide assistance. Certifying officials may notify USCIS directly for cases in which victims are no longer helpful. However, such notification is appropriate only when the victim's lack of cooperation is not reasonable. 55.2.4b In addition, in some cases the USCIS will contact a certifying official, or require a re-certification, to confirm that the victim remains, or remained, cooperative throughout the detection, investigation or prosecution of a crime.</p>